

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
CLERK

2:12 pm, Oct 30, 2019

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AYHAN TARTICI,

Plaintiff,

-against-

SANT KARAM S., INC., HARJIT SINGH,
SURINDER SINGH, SUKHWINDER SINGH
and KULBIR SINGH,

Defendants.

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ADOPTION ORDER
2:16-cv-5140 (ADS) (AKT)

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

APPEARANCES:

Neil H. Greenberg & Associates, P.C.
Attorneys for the Plaintiff
4242 Merrick Road
Massapequa, NY 11758

By: Neil H. Greenberg, Esq.,
Justin M. Reilly, Esq.,
Keith E. Williams, Esq., Of Counsel.

SPATT, District Judge:

On September 15, 2016, the Plaintiff brought an action under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201 *et seq.*, and the New York Labor Law (“NYLL”), seeking compensation for overtime pay. ECF 1. The Plaintiff brought this action against Sant Karam. S, Inc., Atlantis Management Group II, LLC, Harjit Singh, and Billy Ming. *Id.* at 2. The Plaintiff had served all four Defendants by November 2, 2016. ECF 7, 8, 9, 10.

On February 13, 2017, after the Defendants failed to answer or otherwise respond, the Plaintiff requested a certificate of default against all Defendants. ECF. 14. The Clerk of Court entered a default against the Defendants the next day, pursuant to Federal Rule of Civil Procedure (“FED. R. CIV. P.”) 55(a). ECF 15.

On March 27, 2017, the Plaintiff filed an amended complaint, which (a) named the same corporate defendants as well as Harjit; (b) eliminated Ming; and (c) added Surinder Singh, Sukhwinder Singh, and Kulbir Singh as individual defendants. ECF 19. Atlantis Management was the only Defendant to answer, ECF 35, and the Plaintiff settled with that Defendant and dismissed it from the action, pursuant to FED. R. CIV. P. 41(a)(2), ECF 38, 39, 43, 44, 45.

The Plaintiff moved on March 26, 2018 for a default judgment against the remaining Defendants. ECF 46. The following day, the Court referred the motion to United States Magistrate Judge A. Kathleen Tomlinson for a Report and Recommendation as to whether the motion for a default judgment should be granted, and if so, whether damages should be awarded. ECF 47.

On March 19, 2019, Judge Tomlinson issued the Report and Recommendation (“R&R”), recommending that the Court deny the motion to dismiss, “without prejudice, and with the right to renew if and when plaintiff’s counsel presents the Court with the necessary information concerning the attempt to serve four of the non-answering defendants.” ECF 55, 58. The Plaintiff moved for reconsideration and for an extension of time to file affidavits of service of the amended complaint, attaching to its motion proof that he had served Defendant Sukhwinder Singh with the amended complaint. ECF 60, 60-1. On April 5, 2019, Judge Tomlinson denied the motion without prejudice, reasoning that the R&R was still pending before the Court. ECF 4/5/19 Entry.

It has been more than fourteen days since the service of the R&R. The parties have not filed objections. As such, pursuant to 28 U.S.C. § 636(b) and FED. R. CIV. P. 72, this Court has reviewed the R&R for clear error, and, finding none, now concurs in both its reasoning and its

result. *See Coburn v. P.N. Fin.*, No. 13-CV-1006 (ADS) (SIL), 2015 WL 520346 at *1 (reviewing R&R without objections for clear error).

Accordingly, the R&R is adopted in its entirety. The above-noted motions are denied with leave to renew.

SO ORDERED.

Dated: Central Islip, New York

/s/ Artur D. Spatt

October 30, 2019

ARTHUR D. SPATT

United States District Judge